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IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION No. 388 OF 2007

Javed M. Tajmat & Anr. . . . Applicants

Vs.

The State of Maharashtra . . . Respondent

Mr. Shirish Gupte, Senior Advocate for the applicant.

Mr. U. V.Nikam, APP for the State.

CORAM : J.H. BHATIA, J.

DATE : FEBRUARY 15, 2007.

P.C.

. Heard Mr. Shirish Gupte, Senior Advocate for the applicants and Mr. U. V. Nikam, learned APP for the State.

2. The applicants who are accused Nos. 3 & 4 respectively in Crime No. 270 of 2006 registrered with Khadak Police Station, Pune for the offences punishable under S. 307, 506-II, read with S. 34 of I.P.Code, Sec. 37(1) read with S. 135 of Bombay Police Act and Sec. 4(25) of the Arms Act, seek to be released on bail.

3. The FIR lodged by Shaikh Asif Abdul

Rehman, who is brother of injured Rais, reveals that he himself, his brothers and others were present chit chating in front of Bismilla Hotel, on 20-11-2006 at about 10-30 p.m. Earlier decision was taken to close the stalls around the campus of Mosque, during the month of Ramjan, after specified time. Due to this, accused no.1 Kayyum Ansari, and accused no. 2 Tanvir were annoyed. At that time all the four accused persons, armed with swords, chopper, came there and accused no.1 Kayyum and accused no.2 Tanvir assaulted Rais with sword and chopper and caused serious injuries on his head and other parts of the body. While warding of an attack, said Rais also lost his fingers. it is alleged that at the time of the said incident, present applicants, who were also holding sword, and chopper respectively, uttered that "Rais should not be left and should be finished." As per prosecution, Shaikh Rais had suffered contused lacerated wound on occipital region, size 5 cm. long, 0.5 mm deep. There were injuries on his left hand fingers and little finger was amputated. After some treatment, he was discharged on 3rd or 4th day from the

hospital.

4. From the facts noted above, it is clear that only the accused Nos. 1 and 2 had attacked said Rais with sword & chopper and caused him some injuries, including grievious hurt to the little finger of the left hand. Even though presence of the present applicant was shown, but from the FIR it appears that none of them assaulted said Rais. Case of the present applicants can be distinguished from accused Nos. 1 and 2. No weapon was recovered from the present applicants. No other incriminating article is seized from them. Investigation is completed and charge sheet is filed.

5. In view of the above circumstances, the applicants are granted & they be released on executing P.R. bond in the sum of Rs. 10,000/- each with one surety in the like amount, with condition that they shall not tamper with the prosecution evidence.

[J. H. BHATIA, J.]